

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 248 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 32-8-11-10 IS AMENDED TO READ AS
- 4 FOLLOWS: Sec. 10. (a) This chapter does not limit:
- 5 (1) the right to assign, mortgage, or pledge the rents and profits
- 6 arising from real estate;
- 7 (2) the right of an assignee, a mortgagee, or a pledgee to collect
- 8 rents and profits for application in accordance with an
- 9 assignment, a mortgage, or a pledge; or
- 10 (3) the power of a court of equity to appoint a receiver to take
- 11 charge of real estate to collect rents and profits for application in
- 12 accordance with an assignment, a mortgage, or a pledge.
- 13 (b) A person may enforce an assignment, a mortgage, or a pledge
- 14 of rents and profits arising from real property:
- 15 (1) whether the person has or does not have possession of the
- 16 real estate; and
- 17 (2) regardless of the:
- 18 (A) adequacy of the security; or
- 19 (B) solvency of the assignor, mortgagor, or pledgor.
- 20 (c) If a person:
- 21 (1) enforces an assignment, a mortgage, or a pledge of rents and
- 22 profits arising from real estate; and
- 23 (2) does not have possession of the real estate;
- 24 the obligations of a mortgagee in possession of real estate may not be
- 25 imposed on the holder of the assignment, mortgage, or pledge.
- 26 (d) **A mortgagee seeking equitable subrogation with respect to**
- 27 **a lien may not be denied equitable subrogation solely because:**

- 1 **(1) the mortgagee:**
2 **(A) is engaged in the business of lending; and**
3 **(B) had constructive notice of the intervening lien over**
4 **which the mortgagee seeks to assert priority;**
5 **(2) the lien for which the mortgagee seeks to be subrogated**
6 **was released; or**
7 **(3) the mortgagee obtained a title insurance policy."**

8 Page 3, between lines 36 and 37, begin a new paragraph and
9 insert:

"SECTION 3. IC 32-8-15.5-17, AS ADDED BY P.L.207-2001,
SECTION 1, IS AMENDED TO READ AS FOLLOWS: Sec. 17. (a)
This chapter applies to the release of a mortgage after June 30, 2001,
and before July 1, ~~2002~~, **2003**; regardless of when the mortgage was
created or assigned.

(b) This chapter expires July 1, 2003."

Renumber all SECTIONS consecutively.

(Reference is to ESB 248 as printed February 22, 2002.)

Representative FOLEY